

Perth and Kinross Council
Development Management Committee – 9 October 2013
Report of Handling by Development Quality Manager

**Residential Development (in principle), Forth Wines Ltd, Crawford Place,
Milnathort**

Ref. No: 13/00873/IPL
Ward No: 8 – Kinross - Shire

Summary

The report recommends refusal of the application for residential development in principle as the proposal is not in accordance with the Development Plan and is premature in terms of the Proposed Local Development Plan 2012 and that there are no material considerations which would outweigh the Development Plan.

BACKGROUND AND DESCRIPTION

1. The site lies within the settlement boundary of Milnathort to the southwest of the settlement. The site is bound to the east by existing residential development, to the south and west by farmland and an existing building supplies yard to the north.
2. The site is 1.82ha and contains two buildings comprising of offices and warehouses. The site is generally flat with the topography of the area rising towards the northwest and falling towards the south east. Towards the south western end of the site the boundary rises slightly to form an embankment around this part of the site.
3. The proposal is for residential development in principle an indicative plan has been submitted as part of the application showing how the access, open space and dwellings could be accommodated within the site.
4. The site is accessed via Crawford Place and Stirling Road, the Stirling Road access is shared with the Webster Building Supplies and Drysdale Fencing and Garden Sheds who occupy the remainder of the commercial area. The proposed access to the residential development will be via Crawford Place.

NATIONAL POLICY AND GUIDANCE**Scottish Planning Policy 2010**

5. This SPP is a statement of Scottish Government policy on land use planning and contains:
 - the Scottish Government's view of the purpose of planning,

- the core principles for the operation of the system and the objectives for key parts of the system,
- statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
- concise subject planning policies, including the implications for development planning and development management, and
- the Scottish Government's expectations of the intended outcomes of the planning system.

6. Of relevance to this application are:

- Paragraphs 45-65 Economic Development
- Paragraphs 66-91 Housing
- Paragraphs 165 -181: Transport
- Paragraphs 196-220 Flooding and Drainage

DEVELOPMENT PLAN

7. The Development Plan for the area consists of TAYplan Strategic Development Plan 2012 – 2032 and the Kinross Area Local Plan 2004.

TAYplan Strategic Development Plan 2012 – 2032 Approved June 2012

8. Under the TAYPlan the principal relevant policies are:-

Policy 2: Shaping better quality places

9. This policy states a presumption against development in areas vulnerable to flood risk and to ensure flood risk is not exacerbated.

Policy 3: Managing TAYplan's Assets

10. This policy states a requirement for identifying and safeguarding at least 5 years supply of employment land within principle settlements to support the growth of the economy and a diverse range of industrial requirements.

Kinross Area Local Plan (2004)

11. The site lies within the settlement boundary for Milnathort as defined in the Local Plan and zoned for industrial and business sites.

12. The principal policies of relevance are in summary:

Policy 1: Sustainable Development

13. This policy includes guidelines by which all development should be considered in relation to sound principles of sustainable development.

Policy 2: Development Criteria

14. This policy outlines criteria by which all developments will be judged. In particular, that the development should have a landscape framework should have regard to the scale, form, colour and density of development.

Policy 4: Flooding

15. This policy seeks to protect areas liable to flood risk.

Policy 5: Landscape

16. Indicates that developments should conserve landscape features and sense of local identity.

Policy 71: Industrial/Business Uses

17. Identifies areas of predominantly industrial and business uses which are generally defined by Classes 4,5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This includes general and light industrial uses, offices, storage and distribution. Uses should be compatible with the amenity of adjoining areas and existing uses on site and should only generate traffic appropriate to their location.

PERTH AND KINROSS PROPOSED LOCAL DEVELOPMENT PLAN (PLDP) 2012

18. On 30 January 2012 the Proposed Plan was published. The Council's current adopted Local Plans will eventually be replaced by the Local Development Plan. The Council's Development Plan Scheme sets out the timescale and stages leading to adoption. The Proposed Local Development Plan underwent a period of representation ending in April 2012 and is currently the subject of an examination, but it not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. The Proposed Local Development Plan 2012 is a material consideration in the determination of this application, reflecting a more up to date view of the Council than those contained in the relevant adopted Local Plan.
19. Under the PLDP the site lies within the settlement boundary for Milnathort and is identified under Op16 and E19.

Op16 Opportunity Site

20. The site is located partly within the area zoned for employment use and residential on no more than 75% of site and requires a comprehensive development of the site. Class 4-6 units or serviced land compatible with neighbouring land uses, business requirement will be delivered in advance or in conjunction with residential development.. Any application for this site would require a Flood Risk Assessment, Transport Assessment, Road and access improvements to the satisfaction of the Council as Roads Authority, Landscaping framework, Noise impact assessment and retain potential for multi-user path connecting to Gallowhill Road and Stirling Road

E19 Employment Site

21. The site is located partly within the area zoned for general employment uses. Any application for this site would require a Flood Risk Assessment, landscaping framework, noise impact assessment, noise attenuation measures adjacent to motorway and archaeological investigation.

The principal relevant policies are:-

Policy PM1: Placemaking

22. Development must contribute positively to the quality of the surrounding built and natural environment.

Policy ED1B: Employment and Mixed Use Areas

23. Identifies areas for mixed use intended to promote the integration of employment-generating opportunities with housing. Within these areas a range of uses such as housing, offices, light industry, surgeries and leisure uses would be acceptable providing they are compatible with the amenity of adjoining uses and meet set criteria. Proposals for a mixed use opportunity site that comprises predominantly one use will not be acceptable.

Policy EP2: New Development and Flooding

24. There will be a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. In addition, built development should avoid areas at significant risk from landslip, coastal erosion and storm surges.

OTHER POLICIES

Affordable Housing Policy

25. This policy is applicable to all new housing sites (even ones identified in the local plans) with the exception of those with existing consents or an approved development brief. This policy seeks a 25% allocation of affordable housing; preferably on site however for developments of less than 10 units commuted payments maybe acceptable.

Development Contributions 2012 – Primary Education and New Housing Development

26. This guidance sets out the basis on which Perth and Kinross Council will seek to secure contributions from developers of new homes towards the cost of meeting primary education infrastructure improvements necessary as a consequence of development. All new housing from the date of adoption including those on sites identified in adopted Local Plans will have the policy applied.

SITE HISTORY

27. No recent site history.

CONSULTATIONS

| | |
|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Flood Prevention Team | Initial objection to the proposal on flood risk however discussions have been ongoing and issues have been resolved. |
| Environmental Health | The proposed development is on land historically identified as being part of Ladeside Nurseries, and being in the vicinity of an area of unknown filled ground. Although the site has previously been redeveloped for use as a warehouse, the risk of historic land contamination still needs to be assessed for this application prior to development commencing. |
| Scottish Water | Milnathort Waste Water treatment Works currently has capacity to service this development. This is based on the information available at this time and does not guarantee a connection to Scottish Water's infrastructure. |
| Education And Children's Services | As this application is only "in principle" it is not possible to provide a definitive answer at this stage however it should be noted that the Developer Contributions Policy would apply to all new residential units with the exception of those outlined in the policy. The determination of appropriate contribution, if required, will be based on the status of the school when the full application is received. |
| Milnathort Community Council | The Community Council do not formally object to the proposal but raise the following issues which should be considered fully; loss of employment land and effect of an increase in traffic. |

REPRESENTATIONS

28. 4 letters of representation have been received including the Milnathort Community Council and the Kinross-shire Civic Trust within the period for representations, 3 further representations were received out with this time. The letters received raised raising the following issues:-

- Loss of employment land
- Flood risk
- Contrary to Local Plan
- Traffic and access concerns

These issues are all raised in the Appraisal section of this report.

ADDITIONAL STATEMENTS

| | | |
|-----|------------------------------------------------|--------------|
| 29. | Environment Statement | Not required |
| | Screening Opinion | Not required |
| | Environmental Impact Assessment | Not required |
| | Appropriate Assessment | Not required |
| | Design Statement / Design and Access Statement | Submitted |
| | Report on Impact or Potential Impact | Submitted |

APPRAISAL

Policy

30. Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy.
31. One of the principle components of the Kinross Area Local Plan Strategy is; 'to identify sufficient industrial and business land to provide local employment and thus increase self sufficiency in employment terms.' The site is currently identified for business and industrial uses.
32. The Planning Statement submitted with this planning application provides a summary of recent employment land uptakes indicating that they have been low and acknowledges that currently there is not a 5 year effective supply of employment land. It concludes that 'sufficient land and buildings are available in the area to accommodate foreseeable demand and by the time demand picks up the supply situation should hopefully have improved markedly by the inclusion of the further land west of the M90.'
33. The employment land allocations west of the M90 in the Proposed LDP (E17 & E36 Turfhill) are subject to Representations seeking their removal from the Plan and will be considered through the LDP Examination. The justification for this proposal is premature in advance of the outcomes from the LDP examination. Without the certainty that future effective employment land is available there is not a clear justification for the loss of existing employment land. It is acknowledged that the existing site occupier is seeking to relocate to a new site within Kinross but this will not provide additional employment land helping the Council meeting its effective employment land requirement and could set a precedent.
34. The applicant's Planning Statement supports the release of this site for residential use in advance of the LDP being adopted by indicating it supports the provision of a 5 year housing land supply. The Kinross Housing Market Area currently has an effective 5 year Housing land supply. The Proposed LDP identifies a generous supply of land to support the development needs over and above the Plan period but this is subject to the outcomes of the examination.

35. The proposed LDP identifies this area of land under Op16 and E19. Op16 identifies an area of land for a mixed use development comprising of high quality employment uses and residential on no more than 75% of the total site area. E19 identifies an area of land for general employment uses. The proposed boundary of Op16 and E19 received Representations seeking amendments to the proposed boundaries; this issue is currently being considered through the LDP examination.
36. Op16 recognises that the existing Forth Wines buildings may not be fit for purpose. To support the provision of high quality employment land Op16 indicates support for appropriate residential development through the comprehensive development of the entire site. A requirement of this is the delivery of the employment uses in advance or conjunction with the residential development.
37. This proposal does not meet the terms of Op16 as it does not take account of neighbouring land uses, the provision of improved employment land or indicate how it could fit into a comprehensive development of the site. Due to the outstanding Representations in relation to Op16 this proposal would be considered premature in advance of the outcomes from the LDP examination.
38. In terms of the KALP and TAYplan there is a requirement to retain effective employment land. Kinross does not currently have a 5 year effective employment land supply and slow uptake of employment sites is not sufficient justification for the loss of existing employment land. The conclusion that the effective employment land supply shortfall will be rectified in the near future is premature in advance of the outcome of the LDP examination. The Kinross HMA currently has a 5 year effective housing land supply and there is no requirement for additional residential allocations to meet an identified need.
39. The Proposed LDP gives support for residential development on this site where it is delivered as a comprehensive development of the entire site and the delivery of improved employment uses. This proposal does not meet the developer requirements of Op16 and is considered to be premature in advance of the outcome of the LDP examination.

Layout

40. The application is in principle but an indicative plan has been submitted. The site is limited in terms of its linear form which dictates to a degree any layout possibilities. In addition as the site is being applied for in isolation and not part of a larger development proposal for the area linkages' are limited.

Flooding

41. The Council's Flood Prevention Team has been involved in extensive discussion with the agent regarding the flood risk of the site. A Flood Risk Assessment has been submitted with additional information being requested to address concerns raised.

42. Issues addressed include the finished floor levels FFL of the dwelling along with the levels on site shown capable of being at a level above a 1 in 200 year event, land raising and storage lost has been compensated within the site so that the effect on flooding is neutral or better and full consideration of the M90 culvert blockage.
43. The Flood Prevention Team has no objection to the proposal on the basis of flood risk.

Access

44. The indicative plan submitted shows an arterial road with a central “kink” to slow down traffic. It has been indicated on this plan that vehicular and pedestrian linkages with the land to the northwest and southeast could be accommodated.
45. A Transport Statement (TS) has been submitted but as the application is in principle the Transport planners consider that there is insufficient detail in the TS with regards to the predicted impact of the proposed development to be able to determine the transport implications of this proposal.
46. In the light of the Proposed LDP and the overall proposals for the area it would be prudent for the various parties to consider a coordinated response to the transport implications of the overall development of this whole area, which would allow for a reasoned examination of the wider transport implications inherent in the development of this area.
47. This application however must be assessed on its own merits and as it is an in principle application, it must be considered if the existing access, Crawford Place, would be capable of providing access to the site. Through discussion with the Transport Planners it is acknowledged that although a proposal for the whole site would be preferred, it would be difficult to recommend refusal on the access proposed.

Contaminated Land

48. The proposed development is on land historically identified as being part of Ladeside Nurseries and being in the vicinity of an area of unknown filled ground. Although the site has previously been redeveloped for use as a warehouse, the risk of historic land contamination still needs to be assessed for this application prior to development commencing.

Education and Affordable Housing

49. The development falls within the catchment of Milnathort Primary School. As this is an in principle application no education contribution is required at this stage. The capacity of the school would only be assessed should a detailed planning application.

50. The affordable housing policy is applicable to all new housing sites. This policy seeks a 25% allocation of affordable housing; preferably on site however for developments of less than 10 units commuted payments maybe acceptable.
51. As this application is 'in-principle' the appropriate policy framework should be applied. At the time of a more detailed planning application the appliance of the policy framework would be considered in full
52. The application has been accompanied by a development viability statement in support of waiving the requirement to comply with the affordable housing and education contributions policies. It is normal practice with any in principle application to attach conditions requiring compliance when the application for matters specified by condition is submitted. Any planning permission issued runs with the land and if an in principle permission is granted with no conditions attached relating to education and affordable housing contributions, then such issues would not be capable of being considered when a full application is brought forward, or if the site is sold to another party.
53. The submitted Planning Statement recognises that the Council's policies relating to Education and Affordable housing contributions should normally be applied to the proposed development, but the applicant states that they would appreciate this requirement to be waived because of viability considerations.
54. The Council's Affordable Housing and Developer Contributions Supplementary Guidance documents include recognition that developers may be able to demonstrate to the Council that other requirements or abnormal development costs may render a development unviable by the submission of a 'Development Viability Statement'.
55. A reduction in the level of developer contributions has varying implications for the Council. Reducing the level of requirement for affordable housing would reduce the level of affordable housing provision in the local housing market area. Reducing the requirement for primary education would oblige the Council to mitigate the impact of new development on the school estate through the capital budget. The Director of Education and Children's Services would need to be consulted in such a situation.
56. The viability argument in this instance is not related to the viability of developing the site that is the subject of the application. The applicant has set out that the developer contribution requirements would lower the value of the site in question, and the lower land receipt would subsequently impact on the viability of the relocation and the expansion of their business.
57. Whilst it is usual for viability assessments to consider the costs of development including build costs, design costs, marketing and selling costs and developer profit, the submitted assessment considers the costs of purchasing another property as well as costs to extend that property to ensure appropriate accommodation for the business moving forward. The costs of finance to facilitate such building works are also detailed.

58. Aside from reservations relating to the very basic assumption that the value of the site equates to 20% of the value of the finished development, there are no real issues with the detail of the figures included (although those that are based on assumptions regarding the level and nature of development should be considered as such). It should be clarified however that the “profit” level set out at the end of each appraisal is, in actual fact, the cost to the applicant’s business of the proposed relocation.
59. There are three scenarios provided where:
- affordable housing and education contributions required,
 - education contributions required only and
 - no developer contributions required
60. For each of these a final cost of the relocation to the business is presented, and it is clear that if the contributions are required and are factored in at an assumed level at this in principle stage, the receipt for the land is reduced, and there is an increased cost to the business for their relocation. The fundamental question is whether the Council is willing to reduce the costs of the relocation of the business by waiving developer contributions for education and affordable housing.
61. The submitted ‘Relocation Viability Statement’ does not fit the standard criteria of a Development Viability Statement in terms of the Council’s Affordable Housing and Developer Contributions Supplementary Guidance documents. The need for a business to increase borrowing to relocate would not justify a departure from or flexibility in the application of planning policy in the way envisaged and enshrined in these documents. Acceptance of a viability statement which considers business relocation costs could set a precedent for future submissions which consider matters other than the viability of developing the site in question.
62. The effect of the affordable housing provision and education developer contribution on the amount that the business will have to borrow to relocate is not a planning policy consideration, although it may be given weight in the consideration of the application as a whole. The officer recommendation in this instance is therefore that the normal conditions are attached to any in principle permission setting out that detailed applications will have to comply with the Councils affordable housing and developer contributions policies.

Economic Benefits

63. Forth Wines are an important employer in the Perth and Kinross area. The business is solidly based and has plans to grow in the future. The company have introduced excellent sales and marketing processes, utilising the latest digital marketing techniques. This gives the company a strategic advantage in their sector. Exhibitions/tastings are a key focus and ensures the company’s growth in the number of new customers. Forth Wines have a large team of sale managers covering the whole of Scotland, England and Wales. This gives this local company a presence in the GB wine and spirit sector, and ensures that the company will maintain and grow their skilled employee base in the local area. It would appear that they have excellent supplier relationships and work

hard to add value to their customer experience. In conclusion, Forth Wines are an important, ambitious local business, who fit well with Perth and Kinross's strategy to grow our food and drink portfolio of businesses.

64. The economic benefits to Forth Wines is that the proposal would assist in funding their relocation to a new site within Kinross as the current buildings are no longer fit for purpose. This proposal would allow the business to remain in Kinross retaining the staff who live locally and the good transport links to and from the M90. This proposal would enable them to move to better quality accommodation that will secure the future of the company, and its current workforce, and will eventually allow them to expand and add new staff.
65. The economic benefits in term of the application site would be the release of land for housing meeting the ongoing need for housing land supply. This proposal would generate employment in the construction industry and eventually through construction of the dwellings increased spending on goods and services in the local area.

Sustainability

66. Housing provision within existing settlements is in accordance with the goals of sustainable development where residents have access to social, economic and community facilities and good access to differing modes of transport.

Drainage and Water Supply

67. Scottish Water has no objection to the proposed development. Milnathort Waste Water treatment Works currently has capacity to service this development. This is based on the information available at this time and does not guarantee a connection to Scottish Water's infrastructure. A separate application would need to be submitted for connection to this infrastructure after full consent has been granted.

LEGAL AGREEMENTS

68. As this application is in principle, a legal agreement would not be required at this stage.

DIRECTION BY SCOTTISH MINISTERS

69. Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in, or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

70. The council is supportive of local businesses and supports Forth Wines in their relocation plans however the approval of the site for residential development in principle is contrary to the current local plan and furthermore does not meet the

developer requirements of Op16 and is considered to be premature in advance of the outcome of the Local Development Plan examination.

RECOMMENDATION

A Refuse the application for the following reasons:

Reasons:

- 1 The proposed development is contrary to Policy 71 of the Kinross Area Local Plan 2004 as the site is zoned for industrial and business purposes.
2. The proposal does not meet the requirements of Op 16 of the Proposed Local Development Plan 2012 or the requirement for a comprehensive development of the larger site within which the application site is located and as a consequence the proposals are considered to be premature in advance of the outcome of the Local Development Plan examination.

B JUSTIFICATION

The proposal is contrary to Kinross Area Local Plan 2004 and premature in terms of the Proposed Local Development Plan 2012 and there are no material reasons which justify departing from the Development Plan.

C PROCEDURAL NOTES

None.

D INFORMATIVES

None.

Background Papers: 7 letters of representation
Contact Officer: Joanne Ferguson – Ext 75320
Date: 17 September 2013

Nick Brian
Development Quality Manager

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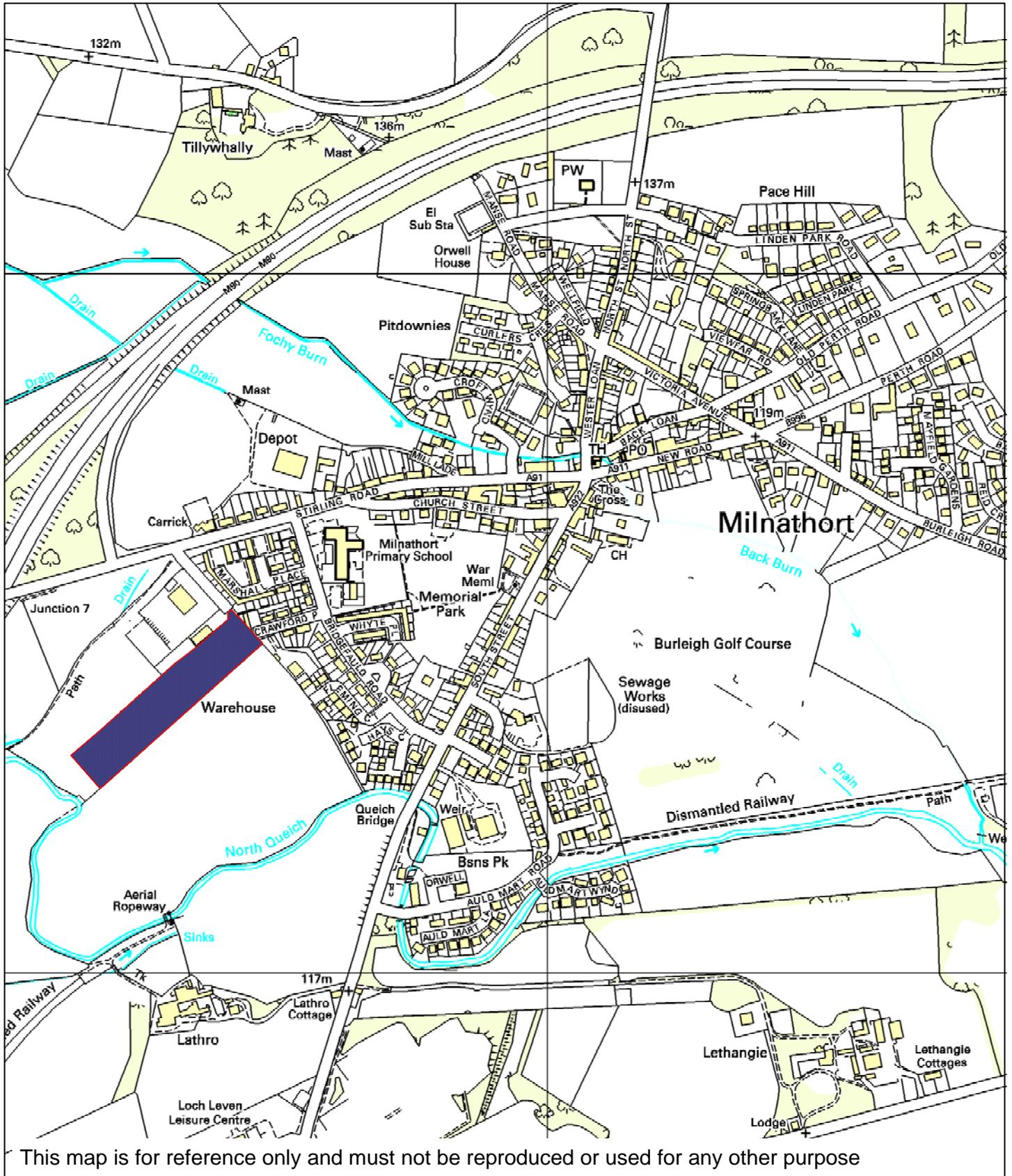
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Perth & Kinross Council

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Forth Wines Ltd, Crawford Place, Milnathort

Residential Development (in principle)



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↑ Scale
1:7500

